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Counsel for Chapter 7 Trustee
Kyle Everett

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re

BENJA INCORPORATED

Debtor.

Case No. 20-30819 DM

Chapter 7

**APPLICATION TO EMPLOY
COUNSEL FOR CHAPTER 7
TRUSTEE (FINESTONE HAYES
LLP)**

Kyle Everett, Chapter 7 Trustee (“Applicant”), respectfully submits this application to employ Finestone Hayes LLP (the “Firm”), whose business office is 456 Montgomery St, 20th Floor, San Francisco, CA 94104, as his general bankruptcy counsel (the “Application”). This Application is brought pursuant to sections 327(a) and 328 of the Bankruptcy Rules, Federal Rule of Bankruptcy Procedure 2014 and the Guidelines of the Office of the U.S. Trustee. In support of the Application, the Applicant represents as follows:

1. Applicant is the duly appointed, qualified and acting Chapter 7 Trustee in this case.
2. Applicant desires to retain the Firm as his counsel in connection with all matters related to the above-referenced Chapter 7 proceeding.
3. Subject to further order of this Court, and without being exhaustive, the Firm proposes to render the following types of legal services to Applicant:

- a) To advise and represent Applicant as to all matters and proceedings within this Chapter 7 case, other than those particular areas that may be assigned to special counsel;
- b) To assist, advise and represent Applicant with respect to his duties under Bankruptcy Code Section 704(a);
- c) To assist, advise and represent Applicant regarding any lawsuits or claims that are being prosecuted by or against the Debtor;
- d) To assist and advise the Applicant in the investigation and disposition, if appropriate, of assets of the estate
- e) To assist and advise the Applicant regarding the investigation and prosecution of potential avoidable transfers; and,
- f) To assist, advise and represent Applicant in dealing with the creditors and other constituencies and analyzing the claims in this case.

4. Applicant desires to retain the Firm on the basis of its expertise in bankruptcy law and its experience in representing Chapter 7 trustees and believes that retention of counsel is necessary with the foregoing matters and would be in the best interests of the estate. Moreover, the Firm represented Applicant as the Chapter 11 trustee and is already familiar with this case and matters related to Applicant's performance of his duties. The Applicant is familiar with the services provided by the Firm and its fee and cost structure and believes that its services will benefit the estate and its rates are reasonable.

5. Subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Guidelines for Compensation and this Court's rules, Applicant proposes to pay the Firm its customary hourly rates in effect from time to time and to reimburse the Firm for its expenses according to its customary reimbursement policies. The Firm's hourly rate for partners is \$560 and the hourly rates for associates and contract attorneys range from \$375-\$475. The rates are subject to increases on an annual basis. The Firm has acknowledged that its employment and compensation is subject to Bankruptcy Code Section 327.

6. To the best of Applicant's knowledge, the Firm has no connection with the

1 debtor, creditors, or any other party in interest, their respective attorneys and accountants, the
2 United States Trustee or any person employed in the Office of the United States Trustee, except
3 as set forth in the Declaration submitted in support of this Application. The Firm does not
4 presently represent any interest adverse to the Applicant or to the estate in regard to matters
5 with which it is to be employed. The Firm is disinterested.

6 7. Applicant requests that approval of this Application be retroactive to the
7 conversion date of January 29, 2021.

8 8. This Application has been served electronically on the Office of the United
9 States Trustee via CM/ECF. No hearing is required unless requested by the United States
10 Trustee, a party in interest or the Court.

11 Based on the foregoing, Applicant respectfully requests that this Court approve the
12 employment of Finestone Hayes LLP as his general bankruptcy counsel to render services as
13 described above, with compensation to be paid as an administrative expense in such amounts as
14 this Court may hereafter determine and allow, with approval of this Application retroactive to
15 the conversion date of January 29, 2021.

16 Dated: September 1, 2022

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18 /s/ Kyle Everett
19 Kyle Everett
20 Chapter 7 Trustee
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1 I am over the age of 18 and not a party to this action. My business address is 456
2 Montgomery Street, Floor 20, San Francisco, California 94104. I caused a true and correct copy
3 of the following documents:

- 4 **1. APPLICATION TO EMPLOY COUNSEL FOR CHAPTER 7 TRUSTEE**
5 **(FINESTONE HAYES LLP); and**
- 6 **2. DECLARATION OF STEPHEN D. FINESTONE IN SUPPORT OF**
7 **APPLICATION TO EMPLOY COUNSEL FOR CHAPTER 7 TRUSTEE**
8 **(FINESTONE HAYES LLP)**

9 to be served in the manner stated below.

10 **SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

11 Pursuant to controlling General Orders and Local Bankruptcy Rules, the forgoing documents
12 will be served by the court via NEF and link to the document. On September 1, 2022, I checked
13 the CM/ECF docket for this action and determined that the following persons are on the
14 Electronic Mail Notice List to receive NEF transmission at the email addresses stated below.

15 Jared Day
16 jared.a.day@usdoj.gov

17 Office of the U.S. Trustee / SF
18 USTPRegion17.SF.ECF@usdoj.gov

19 Paul Manasian
20 manasian@mrlawssf.com

21 Tanya Benham
22 tbehnam@polsinelli.com

23 Kathy Quon Bryant
24 kquonbryant@mlg-pc.com

25 Carol Chow
26 carol.chow@ffslaw.com

27 Merle Meyers
28 mmeyers@mlg-pc.com

randy.michelson@michelsonlawgroup.com

spernaplank@jaspanllp.com

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on September 1, 2022, in San Francisco, California.

3 /s/ Stephen D. Finestone
4 Stephen D. Finestone
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